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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Additional information submitted by States parties to the Covenant in connection with the consideration of their reports by the Committee on Economic, Social and Cultural Rights

Addendum

PANAMA*

[24 January 1992]

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* By note dated 24 January 1992, the Government of Panama submitted additional information which relates to the Committee's consideration of its reports (E/1984/6/Add.19, E/1986/4/Add.22, E/1988/5/Add.9 and E/1989/5/Add.5) at its sixth session and is reproduced in the present document.

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Annex

List of 25 reference documents, in Spanish, available for consultation at the United Nations Centre for Human Rights

I. REPLIES REGARDING ISSUES TO BE TAKEN UP IN CONNECTION WITH THE IMPLEMENTATION OF ARTICLES 6 TO 15 OF THE COVENANT (E/C.12/WG/1991/CRP.2)

Right to work (art. 6)

1. Regarding the right to work, document E/1989/5/Add.5 sets out the constitutional and legal provisions that guarantee the right to choose employment or work in accordance with the provisions of this article. In practice, individuals choose freely and voluntarily such employment as suits them and keep their job for as long as they wish. They may give up or leave their employment whenever they see fit, i.e. no one may compel them to remain in a job against their will, nor may they be obliged to work overtime, except in the case of major disaster, force majeure or fortuitous event.

2. It can also be seen from document E/1989/5/Add.5 that freedom from discrimination in obtaining employment is guaranteed, as well as equal treatment and wages for work of equal value, as stipulated by articles 10 and 145 of the Labour Code.

3. Certain key positions designated as "security posts" on the Canal Commission, which is a United States federal agency, may only be held by United States citizens and certain qualified Panamanians. The Commission employs approximately 17,000 Panamanians and 2,800 United States citizens. This is for security reasons and does not constitute discrimination.

4. Regarding protection from arbitrary dismissal, articles 214 et seq. of the Labour Code guarantee a formal procedure for dismissal on the grounds laid down by article 213 of the same Code, as well as special procedures to be followed prior to the dismissal of trade-union leaders and shop stewards, and women on maternity leave.

Right to the enjoyment of just and favourable conditions of work (art. 7)

5. In Panama the principle of compulsory vacations applies in accordance with the country's commitments under ILO Convention No. 52 concerning Annual Holidays with Pay and employees are entitled to rest and to the enjoyment of vacations. For this reason, articles 52 et seq. of the Labour Code, specifically prohibit workers from working during their vacations, as was indicated in paragraph 111 et seq. of the report (E/1989/5/Add.5).

Trade-union rights (art. 8)

6. As indicated in paragraphs 119 et seq. of the report (E/1989/5/Add.5), full trade-union rights are protected and guaranteed not only by article 64 of the Constitution, but also by Title I of the Labour Code.

Rights covered by articles 10 to 12

7. Among the advances made in recent years in the family sphere, it is worth mentioning that Panama has signed the Convention on the Rights of the Child,

and that the final version of the draft family code has been completed. In addition, the National Directorate for Children and the Family (DINNFA) has been reorganized and the National Directorate of Social Welfare established with a brief to operate flexibly and effectively.

Protection of the family, mothers and children (art. 10)

8. Article 57 of the present Constitution reproduces the relevant article of the 1946 Constitution, together with the provisions of the Civil Code which have for 46 years compelled the ecclesiastical authorities to conform to and to obey the relevant civil laws. There are strict regulations prohibiting the civil registry from making any reference to a child's filiation in order to avoid discrimination between children born out of wedlock and those born within marriage. Article 66 of the Constitution together with articles 117 et. seq. of the Labour Code prohibit minors aged between 14 and 18 from performing specific tasks that are harmful to their health or moral well-being, and stipulate that authorized activities should not interfere with their studies. In addition, neglect and cruelty affecting minors are punished by the Civil Code, and in particular by Act No. 19 of February 1951 which established the national Guardianship Court for minors.

Right to an adequate standard of living (art. 11)

9. The State's efforts to provide food for schoolchildren are centred on the school lunch programme which extends to 40,800 pupils in 1,000 primary schools in seven districts where poverty is acute. They complement other nutrition and hygiene programmes directed at the school population, as described in paragraphs 67 and 68 of document E/1988/5/Add.9. Protection from hunger is provided by the people's canteens in metropolitan areas, which supply food to low-income Panamanians, as well as by campaigns organized by civic clubs and religious organizations that distribute food, provided by regular contributions and gifts, in marginal areas. In addition, there are state and private orphanages, old people's homes and day-care centres. In addition, Act No. 24 of 1954 makes it compulsory to provide food for handicapped children, parents and brothers and sisters, etc.; the obligation is enforced by administrative decisions before neighbourhood magistrate's courts, and by the municipal courts and the Guardianship Court. Both the Government and a number of non-governmental organizations operate technical assistance programmes and programmes for the provision of equipment and seeds for the cultivation of basic food, and for fish farms (tilapia and carp); these are occasionally implemented in conjunction with lowland rice cultivation (aquaculture). No statistics are currently available on this topic.

10. Through the Price Control Office and the Ministry of Trade, the State has reached agreements with firms that manufacture school uniforms and shoes to produce these items in sufficient quantity and at prices within the reach of the most needy sectors of society; the Ministry of Education regularly receives donations of school uniforms and shoes for needy children, and contributions are also made by civic associations such as the Lions Club, Veintetreinta, the Rotarians, etc. Public departments, autonomous state bodies and private firms also provide their employees with uniforms in full or in part. In addition, fabric sales allow clothing prices to be kept extremely low, and Panama has the advantage of having a stable climate as it is a tropical country.

11. In spite of the low level of aid currently received by Panama from international organizations, drinking water is provided from artesian wells together with latrines in villages of under 500 inhabitants, and by the Ministry of Health and the National Institute of Water Mains and Sewers (IDDAN) to towns of over 500 inhabitants.

12. The scant funds available are used for programmes of low-cost social housing carried out by the Ministry of Housing, and for rural housing whose beneficiaries contribute the labour while the State provides the materials, plans and technical management for the projects. In Colón, where there is a considerable housing problem, a fund has been set up, financed by a tax on special services in the Colón Free Zone, exclusively for the construction of housing, as there are too many wooden houses in Colón that have been condemned on account of their state of disrepair and insalubrity.

Right to physical and mental health (art. 12)

13. The State carries out immunization campaigns and programmes among the population together with programmes to eliminate mosquito breeding grounds and campaigns for the prevention of AIDS and other contagious venereal diseases, and in particular epidemics such as cholera and mosquito-borne haemorrhagic fever. Taxes on cigarettes have also been increased in order to reduce smoking, and smoking in public places and on public transport, and in particular in public offices, clinics and hospitals, has been banned. There is no particular problem of pollution in Panama as there are none of the heavy industries that are responsible for environmental pollution.

Right to education (arts. 13 and 14)

14. The Ministry of Education has introduced classes on civic values, courtesy and religion which cover the inherent civic rights of individuals and seek to improve the moral education of students by imbuing them with an awareness of their human rights.

15. Since 1946 primary education has been free, and on 28 June 1987 Act No. 13, which abolished school fees for all the country's official secondary schools, as explained in paragraph 86 of document E/1988/5/Add.9, was decreed. In the case of higher or university education, an extremely low fee of 20 balboas per semester is charged, and the Human Resources Development Institute (IFARHU) has been set up to implement the system of grants for all levels of national education. On average, approximately 4,112 grants are awarded to primary-school students, 28,463 to secondary-school students and 7,410 to university students, as indicated in paragraphs 133 et. seq. of document E/1988/5/Add.9; international scholarships are also awarded. In addition, the State has introduced the MACBETH Programme, financed by UNDP and ILO and with technical assistance from PREALC, to improve the level of training of civil servants and to help all categories of public employees to improve their professional skills.

16. There are no problems of discrimination in Panama either in employment or education. This is also true of private and foreign universities such as the State University of Florida, the University of Oklahoma, Nova University and

the Inter-American University, which operate in Panama and accept students of any race, religion or political belief.

17. The Education Organization Act provides for freedom of education and for the establishment and operation of both public and private educational institutions. Private education is provided at all levels and the State ensures coordination with and supervision of private establishments. A total of 4,019 students are enrolled in private universities such as the Universidad Santa María La Antigua del Istmo and the four foreign universities mentioned above.

Right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and protection of the interests resulting from any production of which he is the author (art. 15)

18. In order to develop the cultural life of the Panamanian people and in accordance with the Constitution, by Act No. 63 of 6 June 1974, Panama established the National Institute of Culture (INAC), to implement the objectives and programmes of cultural dissemination, as described in section III of document E/1988/5/Add.9. In addition, the Education Organization Act and the Act by which the National University was set up established freedom to conduct scientific research and to pursue artistic and cultural activities, in conjunction with INAC.

19. The State promotes and subsidizes classical music, ballet, recitals and folklore, as well as theatres run by various theatrical organizations. It also implements educational and cultural programmes through television channel 11, run by the National University, and channel 5, which has been awarded to a civic association for the promotion of scientific education.

20. Author's copyright is also protected in Panama and registered in the Ministry of Education, which has registered hundreds of authors of educational and scientific works. There is also a register of commercial and industrial patents kept by the Ministry of Trade and Industry and the registry of brand names of medicines and food kept by the Ministry of Health.

II. REPLIES TO ORAL QUESTIONS PUT BY MEMBERS OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Reply to Mr. Samba Cor Konate

1. Have the economic difficulties been dealt with by legislation?

21. Some reforms (such as the tax reform) are being discussed by the Legislative Assembly. Other reforms of the so-called Economic Plan and Development Programme, such as exemption from and/or gradual reductions in tariffs, will be effected through Cabinet decrees approved by the Council of Ministers.

2. Have measures been taken to mitigate the consequences of the Economic Plan in the labour sphere?

22. Among other measures provided in the Economic Plan, certain public services provided by State institutions are to be privatized: the purchasers will assume the costs of redundancy and/or benefits for most of the institution's staff. A system is under way whereby public employees who resign from their jobs will receive 6 to 12 months' salary in order to open small businesses or work on an independent basis.

3. Has there been any legislative action in connection with article 59 of the Constitution, which obliges the State to provide and protect the right to work?

23. It is not article 59 but article 60 of the National Constitution that stipulates, "Work is a right and a duty of the individual", and hence the State is under an obligation "to devise economic policies to promote full employment and ensure the requisite conditions for a decent life for every worker". In other words, the State is obliged to "devise economic policies" to promote employment rather than to provide every citizen with employment; the State protects employment by assuring workers of job stability in accordance with articles 211 and 212 of the Labour Code. Generally speaking, there are ordinary remedies (or the administrative remedies of appeal and reconsideration proceedings) and extraordinary remedies (such as amparo (enforcement of constitutional rights), action of unconstitutionality, application for habeas corpus and administrative law appeal for damages or annulment), all of which are applied for to the Supreme Court of Justice, against arbitrary, illegal or unconstitutional acts by the executive or legislative authorities.

4. Unemployment rates.

24. In 1987, the unemployment rate amounted to 20 per cent in the metropolitan area; according to the "household survey", there were 45,000 unemployed, and the absolute figure in August 1988 amounted to 125,000 and 158,000.

5. Are there problems of racial discrimination against indigenous and black people?

25. As we said earlier, with the exception of the so-called "key high-security posts" in the Canal Commission, which is a United States federal agency, there is no racial discrimination in Panama either against black people or indigenous people, who are in high demand as cooks (because of their skills), in restaurants, in the United States army, on ships, etc.

B. Reply to Mr. Bruno Simma

26. The Ambassador of Panama in Geneva will reply to Mr. Bruno Simma's questions.

C. Reply to Mr. Javier Wimer Zambrano

27. The Ambassador of Panama in Geneva will reply to Mr. Wimer Zambrano's questions.

D. Reply to Mr. Wladyslaw Neneman

1. Article 59 of the National Constitution states that work is a duty. Does this mean that work is compulsory or subject to punishment or is it merely a moral requirement?

28. Obviously this is a "declaratory" article containing general principles as an appeal to the citizen; work is not compulsory in Panama.

2. Children can join trade unions once they reach the age of 14; is this not inconsistent with legislation prohibiting work by children under 14 years of age?

29. Although it is true that article 337 states that persons 14 years of age or over (domestic jobs) can join trade unions, it does not authorize employment of children under 14, as clearly stated in articles 117 and 118 of the Labour Code.

3. What percentage of abandoned children are cared for in orphanages or State homes?

30. Information is unavailable at this time and will be sent to the Committee subsequently.

4. What proportion of families own their own homes, and how many do not?

31. No information is available at this time.

5. How many doctors and hospital beds are there per 1,000 inhabitants?

32. No information is available at this time.

6. In the case of de facto marriage, what is the situation regarding inheritance?

33. Everyone is fully entitled to inherit from a person with whom they were living, if they can prove through five competent witnesses that they had been living with that person in a free union for over five years.

7. How many women work, and how many children use State day-care centres and the Child Guidance Centres (COIFs)?

34. No information is available at this time.

8. How many single mothers are there? Are there laws and remedies for obtaining a maintenance allowance?

35. We have no information at this time on single mothers, but the Civil Code provides for paternity proceedings before the Children's Court, and there are also laws obliging fathers or presumed fathers to pay maintenance allowances (Act No. 24 of 1956).

E. Reply to Mr. Valeri Kouznetsov

1. The report is very theoretical and does not reflect the actual situation. For example, the unemployment rate has increased. What is the amount of unemployment benefits paid by the State?

36. Generally speaking, the State neither pays nor requires private companies to pay unemployment benefits. Very few companies have reserves for payment of an "unemployment fund", because the cost would be very high and in United States dollars. Through the collective labour agreements, the SUNTRAC (Sole Construction Workers Union) has established an unemployment fund covering 6 per cent of the union members working for the Panamanian Chamber of the Construction Industry (CAPAC).

2. How is divorce governed in Panama, and what are its procedures?

37. The grounds for divorce are specified in article 114 of the Civil Code and divorce is handled as a special proceeding.

3. How many children do not go to school, how many people are illiterate and what steps is the Government taking?

38. According to the information contained in paragraphs 83 and 84 of document E/1988/5/Add.9, only 7.5 per cent of the juvenile population (24,219 children) do not receive primary education. The Government of Panama has launched literacy campaigns, and there are 463 public education centres (night schools for the most part) giving classes to 17,203 adults in reading and writing and in completion of primary and secondary studies (see E/1988/5/Add.9, para. 35).

F. Reply to Mr. Kenneth Osborne Rattray

1. As part of the economic reconstruction process in Panama, are there activities for stimulating the economy? Is it now thought that jobs are more important than the rights to housing, social security, etc?

39. All this is important to our Government. The economy is stimulated for the creation of new jobs, but attention is also given to the acquired rights covered in the Labour Code, social security, and the plans for developing low-cost housing.

2. Does the minimum wage exclude certain categories of workers, such as domestics?

40. As we explained earlier, the minimum wage is set through a Tripartite National Commission on the Minimum Wage, which is currently making its final studies for adjusting and bringing up-to-date the minimum wage by occupation and area, based on the principle "equal pay for equal work", and domestics are included.

3. Do the detailed laws on trade unions exclude foreigners from membership of trade-union governing bodies?

41. This is not actually discrimination since membership of governing bodies is also prohibited for employees holding confidential posts and those under 18 years of age.

4. Regarding the right to social security, do unemployment benefits exist? What is the unemployment and underemployment rate?

42. The Social Security Fund extends benefits for illness, hospitalization, drugs, laboratories, X-rays, etc., for up to three months following the termination of employment for the worker and his beneficiaries and dependants; however, if the worker has made 180 payments or more, he will then be entitled to benefits for up to 12 months. There is no unemployment subsidy or allowance in Panama, other than the unemployment benefit offered in certain exceptional cases such as SUNTRAC. According to the latest figures published by the Ministry of Labour, unemployment has decreased from 20 per cent to 15.7 per cent in two years, i.e. there are 36,160 new units in the labour market. We have no precise information on underemployment.

5. Concerning social security in the private sector, is an employee entitled to medicine (and medical attention) in the workplace?

43. Very few private companies have medical services and medicines available in the workplace. There are practically no collective agreements in which workers have attached importance to it; that is to say, they do not demand it. The Ministry of Labour and Social Welfare (MITRABS) is trying to induce workers to demand this type of service. The Social Security Fund covers this risk.

6. What has been done to protect women and street children?

44. Both the Labour Code, the Constitution and the social security laws provide financial subsidies for mothers up to one year after the birth and special shifts and leave to enable them to nurse their children. As for street children, the new Mayor of Panama City has launched a campaign to stop children selling objects at traffic lights; police drives have been conducted in order to contact parents, make an evaluation of their social and economic situation and provide them with support and guidance.

G. Reply to Mrs. Virginia Banoan Dandam

1. Paragraph 102 of document E/1988/5/Add.9 indicates that indigenous people are the least privileged with regard to education. Why are 63 per cent of them illiterate? Is it because of religion? Is it because they are women? Is it a language problem? What is being done? Why is the percentage of children so high?

45. As explained earlier, the Indian tribes' particular characteristics and customs, allied to the fact that the reservations where they live are scattered and of difficult access and terrain, make it very difficult to provide them with education and health services. The Indians who keep some independence in their customs and traditions have several wives working for them, and these wives are not allowed to speak with strangers. For this reason, Indians from each region have been trained as teachers in order to provide education for their own tribe, but the great majority, once they receive their primary or secondary teaching certificate, do not wish to return to their reservation. Despite this, the Panamanian Government is continuing to provide teacher training for people from each tribe.

2. How are school curricula used to preserve the cultural heritage of indigenous people?

46. The education dispensed by indigenous teachers is bilingual and contains special programmes designed not to interfere with their traditions and customs.

3. Why is there such a high incidence of drug use among young people?

47. In the first place, it should be explained that the incidence of drug addiction in Panama is relatively low and within normal parameters in comparison with other countries within and outside the region; drug addiction is not such an alarming problem. What is alarming is the "wars" between drug gangs, most of whom are foreign and aim at controlling and exporting narcotics. Such cases are not concealed in a democracy, and the publicity they receive might be giving a distorted idea of the actual situation.

H. Reply to Mr. Philippe Texier

1. As part of the democratic reconstruction policy, what importance is given to human rights, what are the political programmes, and are human rights being neglected?

48. In the past two years, during which there has been a democratic Government, there has been complete freedom of expression and freedom to act; Panamanian citizens and foreigners enjoy all their rights and property, which are respected. There is no political persecution, and precisely because procedural guarantees are respected, many crimes, cases of embezzlement and illegal enrichment have not yet been punished; these include the much-discussed, despicable murder of Mr. Hugo Spadafora.

2. Since difficulties persist in implementing the Covenant in the labour sphere, what percentage of the labour force is affiliated to a trade union?

49. Statistical information is not available at this time and will be sent to the Committee subsequently. Apparently the number of persons affiliated to a trade union is relatively low, given the corruption among trade-union leaders during the dictatorship. It is rather difficult to determine who are the members of a trade union, because it is compulsory to pay trade-union dues in Panama under two circumstances: (a) under article 373 of the Labour Code, when the number of trade-union members in a company exceeds 50 per cent plus one, all the rest must pay union dues, although they are not registered members and are under no obligation to participate in the union; and (b) under article 405 of the Labour Code, when the union is negotiating a collective agreement, all those who stand to benefit from the agreement (that is, all the employees in the company or industry) must pay union dues for the entire period during which the collective agreement is in effect, even though they neither are members nor wish to participate in the trade union.

3. How does an unemployed Panamanian survive, and what does the State do to help him?

50. An unemployed Panamanian survives in the same way as an unemployed person in any other country. He becomes part of the "informal sector", selling goods on the street or practising other marginal activites. In Panama, there is a National Directorate of Employment, which has an employment development policy and programmes (see E/1984/6/Add.19).

4. Are obstacles placed in the way of the right to strike and to join trade unions in the Administration? Is there access to compulsory arbitration?

51. It is not at all correct that obstacles are placed in the way of public employees wishing to join trade unions in Panama. State unions exist and have been given legal recognition in the National Telecommunications Institute (INTEL), the Water Resources and Electrification Institute (IRHE); the National Port Authority and the National Railroads. There are also employees' associations in the Ministries and independent and semi-independent institutions, which are organized and act as "trade-union entities" and have conducted a number of strikes and work stoppages. As in any democratic system, when there are strikes by the employees of essential public services, "compulsory arbitration" exists as in the case of the IRHE or INTEL; it is covered by articles 141 et seq. of the Act of 1975.

5. Which body of labour inspectors is responsible for the enforcement of the Labour Act and the Covenant?

52. All of the labour inspectorates in the various sectors and industries are responsible for the supervision and monitoring of compliance with the Labour Code and the Covenant.

I. Reply to Mr. Mohamed Lamine Fofana

1. Please give statistics on the extent to which the Covenant is effectively implemented. What publicity is given to the Covenant in Panama?

53. In Panama, as in nearly all countries, the Covenant was adopted through Act No. 13 of 27 October 1976, by the National Assembly of Representatives (at that time the equivalent of the Legislative Assembly), ratified by the Executive and promulgated in the Gaceta Oficial del Estado, and published and commented on by the local press.

2. The information on articles 13 and 15 is more than a year old. Is there further, more up-to-date information?

54. Unfortunately, we have no more up-to-date information; we could send it to the Committee shortly, except that the deadline for submitting a new report is quite close.

3. What is the situation of natural children, and what are the regulations governing it?

55. As stated in the second periodic report (E/1986/4/Add.22, p. 3), articles 56 and 57 of the Constitution abolished any classification of the kind of affiliation and established that all children are equal before the law. Regulations to that effect had been laid down in the Civil Code in 1947, following the entry into force of the 1946 Constitution, which contained a similar provision.

4. What are the marriage and divorce rates?

56. Information is unavailable at this time and will be sent to the Committee subsequently.

J. Reply to Mr. Juan Alvarez Vita

1. The Social Security Act stipulates that if there is no widow, a worker's mistress (free union) receives the old-age pension. What happens to a man in the same situation?

57. Only if he is disabled does a widower have the same pension rights as a widow.

2. Article 9 (Right to education). It is not mentioned whether there is freedom of expression for university professors. What possibilities of free expression does the law give them?

58. Even during the 20-year dictatorship, freedom of expression was respected in the university, except in cases where such expression was very hostile towards the dictator. Today, under the democratic regime, there is full freedom of expression for teachers, within the general parameters of any university in any country, i.e. fulfilment of the curriculum, high moral standards and proper behaviour.

K. Reply to Mrs. María de los Angeles Jiménez Butragueño

1. What is the actual situation of Panamanian women?

59. Panamanian women have the same entitlement to parental authority and disposal of property as their husbands. Husbands and wives have the same right of parental authority over children, but in cases of divorce, preference is given to the mother in assigning parental authority over minor children. In Panama there is a system known as "separation of property", under which each spouse controls his or her own property, but there also is a "communal estate" system, where explicitly stated in the marriage settlement, whereby the spouses have joint ownership of all their assets and each has an equal right to dispose of them.

2. To what extent do women participate in politics, business and studies?

60. It can be said that women have every opportunity in Panama. There are over eight women legislators, two women deputy ministers and two women judges in the Supreme Court of Justice, and 40 per cent of judges of the higher courts, circuit and municipal judges and staff of public prosecutors' offices are women. There is an association of women business executives, of women accountants and auditors, etc., and a large number of bank officials and executives are women.

3. Is there a minimum working age?

61. Yes. Articles 117 and 118 set the minimum working age at 14, with a ban on certain activities that are harmful to health and morals, based on article 66 of the Constitution.

4. With what assistance and/or social security are citizens provided?

62. The State, through the Ministry of Health and the comprehensive health care system, conducts an active health and social benefits campaign throughout the Republic, which includes not only health measures of a preventive nature but also medical and dental assistance in the workplace and health care at the grass-roots level through the Health Boards, people's clinics, health units and regional and district hospitals. Social security is provided to every citizen, with costs borne jointly by the Ministry of Health and the Social Security Fund.

5. Are there cases of AIDS, and what is the Government doing to control them? How are the human rights of persons with AIDS respected?

63. There are cases of AIDS in Panama; they number approximately 200. The Government has for several years been conducting an active campaign through television, radio and newspapers, and in secondary schools, on measures for preventing AIDS, how it is spread and the need to use condoms. We believe that the campaign is having positive effects, because the number of infected persons has decreased. Once HIV infection is detected in persons, they are treated and with their cooperation attempts are made to trace those with whom

they have had sexual contact in order to examine them and warn them of the dangers of AIDS infection. Serious or very advanced cases are hospitalized for intensive treatment. Persons with AIDS are given psychological and medical treatment to monitor them and obtain their understanding and cooperation so that they will avoid infecting others. Their human rights are respected at all times.

III. COMMENTS ON ERRORS, MISREPRESENTATIONS AND OMISSIONS IN THE PART OF THE DRAFT REPORT OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS ON ITS SIXTH SESSION RELATING TO CONSIDERATION OF THE REPORT OF PANAMA (E/C.12/1991/CRP.1/Add.3)

64. The Government of the Republic of Panama wishes to draw the attention of the members of the Committee to errors, misrepresentations and omissions in the draft report of the Committee which completely change the meaning both of the questions asked by the experts and of the replies given on behalf of Panama. It therefore requests that the following corrections should be incorporated in the text of the draft report.*

A. Paragraph 2 of the draft report

65. In the third line, the word "full" should be deleted and the words "some of" should be inserted before "these rights".

66. In the fifth line, the expression "during 1988" should be replaced by "from 1988 on".

67. Regarding the sixth and seventh lines, it was never said that "More than 250 commercial or industrial business concerns had closed down" but, rather, "More than 250 commercial or industrial business concerns had been seriously affected in their operations".

B. Paragraph 3 of the draft report

68. In the fifth line, the words "or partially annulled" should be added after "cancelled".

69. At the end of the paragraph, the expression "the indicators employed by international organizations had been taken" should be replaced by "the per capita indicators that were employed by international organizations and that should be updated".

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* Note by the Centre for Human Rights: In agreement with the Permanent Mission of Panama to the United Nations, some of the corrections mentioned in the following paragraphs have been incorporated in the final text of the Committee's report on its sixth session (Official Records of the Economic and Social Council, 1992, Supplement No. 3) (E/1992/23-E/C.12/1991/4).

C. Paragraph 9 of the draft report

70. In paragraph 9, which attempts to summarize replies given by the representative of the State party, the words "under article 60 of that instrument as a declaratory and non-punitive norm, since it is not obligatory to accept or not to accept a job" should be added after the word "Constitution".

71. The final part of the paragraph omits an important explanation given in response to questions on discrimination in access to employment. This explanation, which should be added, is as follows:

> "With regard to alleged discrimination in access to employment, an expert having referred to employment in the Panama Canal Commission, the representative of the State party explained that the Commission was a United States federal agency governed by the federal laws of that country, which makes the reservation that 'certain key security posts or offices' should be reserved for United States citizens".

D. Paragraph 12 of the draft report

72. In the fifth line, the words "they were expressly forbidden" should be deleted and in the sixth line the words "from employment in the security sector" should be replaced by "certain key security posts or offices are reserved for United States citizens".

73. In the penultimate line, in order to reflect the actual situation the words "which could be characterized as" should be replaced by "it could not be regarded as".

E. Paragraph 13 of the draft report

74. In the last line, the word "holidays" should be replaced by "vacations".

F. Paragraph 14 of the draft report

75. The expression "the principle of compulsory holidays" should be replaced by "the compulsory principle of vacations".

G. Paragraph 16 of the draft report

76. In the fourth line, the full stop should be deleted and the words "The leadership of the public workers' union" should be replaced by "to control a movement of public employees which".

77. In the seventh line, the expression "union leadership" should be replaced by "public employees", which was the term carefully used by the representative of the State party as the one appearing in Act No. 25.

78. A similar change should be made in the eleventh line.

79. The part of paragraph 16 beginning with the sixth sentence is drafted in a confused and very incomplete manner which is open to misunderstanding; the three sentences following the expression "For example" should be deleted and replaced by the following: "and judicial remedies which can be exercised before the Third Chamber of the Supreme Court of Justice; for example, of the 147 employees of the Water Resources and Electrification Institute (IRHE) dismissed under Act No. 25, 15 had been reinstated after availing themselves of the administrative remedies of reconsideration and appeal. Of the other employees whose administrative appeals had been rejected under the procedure laid down in article 3 of Act No. 25-90, 107 had applied to the Third Chamber of the Supreme Court of Justice for a judicial ruling declaring their dismissal invalid. Again, of the 63 employees dismissed by the National Telecommunications Institute (INTEL) on the basis of Act No. 25-90, 10 had been reinstated after availing themselves of the administrative remedies mentioned above and 38 had applied to the Third Chamber of the Supreme Court of Justice for their dismissal to be declared invalid. In a recent decision, the Supreme Court of Justice had found that only one paragraph in article 2 of Act No. 25-90 to be unconstitutional; after a careful examination, it had dismissed the other objections to that Act, mentioning the right of the Government to preserve the integrity of the State, as certified in the documentation submitted to the Committee."

H. Paragraph 19 of the draft report

80. With regard to the fifth line, it is not correct that mention was made of "the more than 20,000 children in Panama working on a part-time basis". The representative said that he did not have data on juveniles between the ages of 14 and 16 and that he would submit up-to-date statistics on the matter at a later stage. The following should be added to the Panama report: "More than 20,000 children (7.5 per cent) do not receive education for various reasons such as health grounds, the fact of living in remote and inhospitable regions and the dispersal of the peasant populations in the mountain areas".

I. Paragraph 21 of the draft report

81. There is a serious numerical error in the third sentence with regard to the amount of retirement benefit, which in fact ranges from 130 to 1,500 balboas and not, as the report states, from US$ 130 to US$ 150. Moreover, an important part of what was said by the representative of the State party has been omitted: after the word "month" a new sentence should be added reading as follows: "The amount of the retirement benefit was adjusted every two years, and recipients were entitled to all the benefits provided for by the Social Security Fund Act".

J. Paragraph 24 of the draft report

82. With regard to the last two lines, it is an oversimplification to state that the Government "was planning to exempt from taxation persons at the lower-income level" when in fact it was explained to the Committee that "the tax reform was in its second reading before the Legislative Assembly and granted income-tax exemption to more than 220,000 persons earning less than

350 balboas a month or 4,500 balboas a year, and a significant increase in deductions for the spouse and dependants and interest on mortgages and education loans which would mean reduced tax payments for more than 400,000 wage-earners in the country; while similar benefits would apply to small businesses with a taxable income of up to 200,000 balboas, which would be taxed like natural persons and would be exempted from payment of the surtax and dividend tax".

K. Paragraph 25 of the draft report

83. With regard to the sixth and seventh lines, the words "a grant representing 6 to 12 months of their salary" should be replaced by "compensation equivalent to 12 months of their salary plus the thirteenth month".

84. In the eighth line, the word "snacks" should be replaced by "food and refreshments".

85. In the penultimate line, the word "materials" should be replaced by "equipment".

L. Paragraph 27 of the draft report

86. In the seventh line, the word "zone" should be replaced by the correct expression, as follows: "Colón Free Zone, whose production amounted to over 20 million balboas per year".

M. Paragraph 28 of the draft report

87. At the end of the paragraph, after the word "affected", the following phrase should be added: "which covered the cost of a new house or apartment up to an amount of US$ 4,500 plus a supplementary payment of approximately US$ 1,200 to US$ 1,400 for each damaged victim" for the purchase of furniture and other objects".

IV. COMMENTS ON THE CONCLUDING OBSERVATIONS IN THE DRAFT REPORT (PARAGRAPHS 39-48)

88. The Government of Panama believes it is safe to say that most of the observations made by the Committee on Economic, Social and Cultural Rights rested on information concerning Panama (1989-1991) provided by the Mexican expert Javier Wimer Zambrano, who based himself on documents and newspaper reports by persons with ulterior motives, who naturally misrepresented and twisted the facts. It is therefore necessary to try and clarify the existence or otherwise of certain facts and figures. In the interests of greater precision, we will endeavour to analyse the concluding observations methodically paragraph by paragraph.

A. Paragraph 40 of the draft report

89. In the written replies to the list of issues prepared by the Working Group of the Committee (E/C.12/WG/1991/CRP.2), the general questions raised in

section I (General framework within which the Covenant is implemented) were not addressed because such replies were given orally at the morning meeting of Tuesday, 25 November before the adoption of the suggestion that the delegation of Panama should present replies in writing the following day. With regard to some questions by the experts concerning statistical data which the delegation naturally did not possess at the time, and which were not included in the reports submitted by the Republic of Panama, the delegation undertook - an offer accepted by the Committee - to transmit the information and material required by the members of the Committee at a later stage. These data are set out below.

B. Paragraphs 41 to 44 of the draft report

90. The report of the Ministry of Housing on problems related to the victims of El Chorrillo had not been made available to the delegation of Panama. This report is attached, along with the report of the Panamanian Committee for Human Rights which was submitted to the Inter-American Commission on Human Rights of the Organization of American States in 1990. These documents support the statistical figures given by the representative of the State party, as shown below.

1. Paragraph 42

91. Both the report of the Panamanian Committee for Human Rights and that of the Ministry of Housing speak of 2,700 to 2,860 families being affected by the events of 20 December 1989; they add that the figure for persons who sustained damage during the invasion ranges from 12,000 to 15,000 persons. These data should give the Committee a more accurate idea of the real situation and the number of damaged victims.

2. Paragraph 43

92. The preliminary report of the Ministry of Housing on the "Chorrillo Plan" of 20 May 1991 and the final report of 6 December 1991 show that by that time 611 apartments had already been repaired and 1,714 units completed, making a total delivery of 2,325 dwellings, or 81.3 per cent of the total housing affected. In addition, 411 dwellings, representing 14.4 per cent of the total problem, were in a very advanced stage of construction. Mention should also be made of the construction of a further 124 units for the so-called "additional group" representing 4.3 per cent. Each family receives a housing grant of 6,500 balboas, with any difference in the price being made up by the Mortgage Bank.

93. It can also be seen from page 3 of the report of the Panamanian Committee for Human Rights that initially 1,144 families were given temporary accommodation in various places, while pages 5 and 6 of the report show the private and public buildings concerned and the number of families affected by the events of 20 December 1989.

94. It is important to mention that, by the time the delegation returned to Panama City, all the damaged victims who had taken refuge at the Albrook Field shelter had been relocated, as can be seen from the report of the National Red Cross contained in note 621-DG of 20 December 1991, which states that "the

Panamanian Red Cross completed its administration work at the Albrook camp on 6 December 1991 and we are currently preparing the final report" and from innumerable publications and press reports on this matter coinciding with the delivery of the last 535 housing units to be completed, as announced in the aforesaid preliminary report of the Ministry of Housing dated 20 May 1991.

3. Paragraph 44

95. It is lamentable that the Committee should have based itself on inaccurate information in the Wimer report when it referred to a supposed 5,000 persons affected by eviction and demolition of houses. The report states: "... the justification for the actions carried out by Panamanian and United States forces in Tocumen, San Miguelito and Panamá Viejo in early 1990, which affected over 5,000 persons, was unacceptable under the terms of the Covenant as a ground for forcibly removing people from their homes. During the actions concerned, a large number of houses were demolished ...". This is completely untrue, as is shown by the attestations of the police authorities in the above-mentioned areas, including the area of Curundú, Tocumen, San Miguelito and Panamá Viejo (Lefevre Park), according to which at no time and for no reason did the defence forces, with or without support from United States troops, evict residents, still less set fire to or demolish any houses.

C. Paragraph 46 of the draft report

96. With regard to this paragraph, which mentions "the reported high incidence of drug abuse", we confirm the statements made during the Committee's meetings by the undersigned as well as by the Ambassador of the Permanent Mission of Panama in Geneva and attach hereto a report by the Panamanian White Cross, a body entrusted by the State with the detection, treatment and rehabilitation of drug addicts, including cases treated in Panamanian psychiatric clinics. We would also inform you that the Attorney-General of the Republic is submitting a correction to the statement which he allegedly made to the United Nations Human Rights Committee in April 1991; the report of the Human Rights Committee (A/46/40, para. 433) quotes him as saying that "over 60 per cent of young people in Panama used drugs".

D. Paragraph 48 of the draft report

97. With regard to this paragraph, in which "concern" is expressed regarding the "unequal distribution of household income in Panama", we repeat the comments which we made in response to oral questions put by various members of the Committee and wish to draw attention to the adoption of Act No. 31 of 30 December 1991 on the tax reform. This Act exempts from income tax more than 220,000 persons earning less than 350 balboas a month or 4,500 balboas a year and provides for increased deductions for a spouse, dependants and interest on housing mortgages and education loans to the benefit of more than 400,000 wage-earners. It also provides for tax exemptions or reductions for small businesses by applying to them the tax schedule for natural persons for the first 200,000 balboas of annual income. We would further mention that the implementation of the development plan is stimulating private enterprise and thereby creating many jobs, inter alia, through the establishment of three export-processing zones (assembly plants).

98. We also feel that the Committee will be interested in the effort being made by the Panamanian State to pay off its debt towards international credit institutions and the World Bank, and to obtain new financing for the implementation of major projects of social value and benefit to the various communities.

99. It is also important to mention Cabinet Decree No. 2 of 8 January 1992 establishing the Voluntary Retirement Programme for Public Servants. A public employee availing himself of this Plan is guaranteed the equivalent of one year's (12 months') salary plus an additional "thirteenth month" with the aim not only of compensating him for his redundancy but also of giving him an opportunity to engage in small-scale business activities.

ANNEX

Reference documents*

1. Copy of note DSM/C/108/92 dated 21 January 1992, sent by the Minister of Housing and enclosing the final report on the Chorrillo Plan

2. Copy of note DSM/C/613/91 dated 28 June 1991, containing a provisional report on the Chorrillo Housing Plan

3. Copy of note CPDE/A/302/92 dated 2 January 1992, sent by Mr. Roberto Troncoso, Chairman, Panamanian Committee for Human Rights, and enclosing the report sent to the Inter-American Commission on Human Rights of the Organization of American States for 1990

4. Copy of note 475/CT dated 30 December 1991, signed by Mr. Eustace Ward, Mayor of Tocumen, in which he says that there were no permanent evictions or house burnings between 1 January 1990 and 30 December 1991

5. Note AM/NV/091/1992 dated 1 February 1992, signed by Ruben Dario Campos, Mayor of San Miguelito, in which, on the basis of a report from the PTJ and the Metropolitan Police of Area H of San Miguelito, he informs us that there had not been any permanent evictions or house burnings in that district between 1 January 1990 and 1 February 1992

6. Note 33 dated 27 January 1992, signed by Idris H. Santana, Mayor of Curundú, in which he certifies that there were no permanent evictions or house burnings in his district during January-April 1990

7. Note dated 21 January 1992, signed by Miss Lyda Alguero, Mayor of El Chorrillo, informing us that there were no permanent evictions or house burnings in 1990 and that there was only one incident, at the Arca de Noé building, from which intruders were transferred elsewhere so that the apartments could be given to the homeless people of El Chorrillo, to whom they had previously been allocated

8. Note dated 15 January 1992, signed by Raúl Valderrama, Mayor of Parque Lefevre (includes Panamá Viejo), in which he says that no permanent evictions or house burnings took place between January and April 1990 and gives the names of 12 witnesses with their identity card numbers and full addresses

9. Copy of note No. 621/DG dated 20 December 1991, signed by Mr. José A. Beliz, Director-General, Panamanian Red Cross, in which he certifies the closure of the Albrook Field shelter on 6 December 1991

10. Nine press items concerning the closure and clearance of the Albrook shelter and the resettlement of the El Chorrillo families and other

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* These documents, submitted by the Government of Panama in Spanish, are available for consultation at the United Nations Centre for Human Rights.

publications on the tax reform, with comments by Guillermo Cochez, a member of the Christian Democrat opposition in the Legislative Assembly; with the growth in employment of 5.2 per cent, publications relating to the plan for "voluntary retirement" of public employees with 13 months' salary as compensation

11. Statistical bulletin on housing for World Population Day dated 11 June 1991, based on the 1990 National Census

12. Statistical information on movements of patients and medical consultations in the metropolitan hospital complex of the Social Security Fund in the years 1980-1988, 1989 and 1990

13. Statistics for the years 1988, 1989 and 1990 on the number of dentists per 10,000 inhabitants and the number of doctors and nurses per 10,000 inhabitants in the provinces of Panama and Colón

14. Statistics on beds per 10,000 inhabitants for 1988, 1989 and 1990, accompanied by a graph giving figures for each province

5. Statistics on private housing according to the 1980 and 1990 censuses

16. Statistics on marriages and divorces in the Republic of Panama from 1952 to 1989

17. Statements by the Secretary-General of the Legislative Assembly dated 2 January 1992, certifying that Act 25 of 14 December 1990 expired on 31 December 1991 "and has not been extended"

18. Copy of statement No. 059-DOS.92 dated 2 January 1992, signed by Daniel E. O'Donell, Chief, Social Organizations Department, MITRABS, certifying the names and number of trade unions registered in 1990 (8) and 1991 (6)

19. Copy of Cabinet Decree No. 2 dated 8 January 1992, published in Official Gazette No. 21,953 of 16 January 1992, and Executive Decree No. 2 dated 29 January, which supersedes it and contains the plan for voluntary retirement of public officials with 12 months' compensation plus the thirteenth month and the regulations and procedure applicable to those wishing to take advantage of the plan

20. Report by the Panamanian White Cross (Margarita Clinic) for August-December 1991 on the statistics for drug addicts given consultations and treatment at that institution. It includes a descriptive analysis of some characteristics presented by some addicts treated by Dr. Danicia de Rodríguez for the Panamanian White Cross between October 1988 and October 1989, with a breakdown by age and sex

21. Copy of note 17/DE/92 dated 20 January 1992, signed by Fernando E. Montoya, Chief of Statistics, Planning Office, MITRABS, on work permits issued for minors in the years 1989, 1990 and 1991

22. Copy of the cover page of the report of Panama on the development of education at the International Education Conference, 42nd meeting, Geneva, 1990

23. With regard to the arguments put forward at the Conference on the redistribution of income, we mentioned the relevant part (p. 42 et seq.) of Gaceta Oficial No. 21,943 of 31 December 1991, which we attach hereto. It contains Act 31-91 on the tax reform, with the articles which exempt those earning less than 350 balboas from income tax (220,000 taxpayers), increase deductible expenses for more than 400,000 taxpayers, give advantages to mini, small and medium-sized businesses with earnings of less than 100,000 balboas, which pay at the personal tax rate and are exempted from surtax if they earn less than 200,000 balboas and introduce other advantages and exemptions for people on low incomes

24. The relevant part of Act 32 of 1991 (national budget act for the fiscal year 1992) published in Gaceta Oficial No. 21,944, in which the biggest items are: Ministry of Health - 256,557,262; Ministry of Education - 277,911,000

25. Table No. 1 on international cooperation provided to Panama, 1991-1993